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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,878

09/16/2003

Jeffrey A. Schumacher

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02/01/2006

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EXAMINER

CHARLES, MARCUS

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,878	<b>Applicant(s)</b> SCHUMACHER ET AL.	
	<b>Examiner</b> Marcus Charles	<b>Art Unit</b> 3682	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to the amendment filed 12-12-2005, which has been entered.

Claims 1-12 and 14-20 are currently pending.

#### ***Drawings***

1. The drawings were received on 12-12-2005. These drawings are approved.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Livesay (4,265,084) in view of Templin et al (4,271,663). Livesay discloses the claimed invention including the first and second single molded piece links (16) having first and second respective ends defining coaxial first apertures that are coaxially aligned, Livesay also discloses the sealed chain link having a first link (12) such that the first link includes an annular receptacle (78) in the outer surface of the second end that is coaxial with a barrel (16) and a sealing member (76) and a flat surface of the second link facing the receptacle in order to retain lubricant. Livesay fails to disclose the chain is molded and the first ends are coaxial with first barrels such that a respective pin extends through the first apertures and the first barrel. Templin et al. disclose the chain is made from a moldable material having links (16, 18) and having first ends with first apertures (41) that are coaxial with a first barrel (40), a pin extends

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through the apertures of the links and barrel in order to reduce weight, prevents the chain from being corroded and to reduce friction and wear on the pins. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the chain of Livesay so that it is made from a molded material in view of Templin et al. in order to reduce weight, prevents the chain from being corroded and in order to reduce friction and wear on the pin, to minimize bending from the pin and to reduce the number of parts during assembling and disassembling.

In claim 2, note a sealing member is in each of the side bars

In claim 3, note the pin is rotatable fixed relative to the second link by being press fitted to the second link.

In claim 5, Livesay discloses the claimed invention

In claim 6, Templin et al. discloses the links are made from plastic.

In claim 7, note the receptacle (78) is spaced from the aperture.

In claims 8-11, Livesay and Templin et al. discloses the claimed above invention.

In claims 12 and 18, Livesay does not disclose a wall extending axially from an outer wall adjacent the aperture of the side bars of the second links and the wall engaging the pin to prevent the from rotating relative to the second link. Templin et al. disclose each of the second links includes a wall (50) in order to lock the pin to embrace the second links with out additional parts. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to modify the second links of

Livesay so as to include extending spaced apart walls in view of Templin et al. in order to lock the pin to embrace the second links with out additional parts.

In claim 14, Templin et al. disclose the claimed invention.

In claims 15-17 and 19-20, Livesay discloses the claimed invention above but does not disclose the first and second links having a respective first coaxial end that is joined by a barrel and a pin extends through the coaxial end. Templin disclose the claimed invention above. Therefore, it would have been obvious to one of ordinary skill in the art the time of the invention to modify the chain links of Livesay to includes a barrel in view of Templin et al. in order to reduce friction and wear on the pin, to minimize bending from the pin and to reduce the number of parts during assembling and dissembling.

In claim 20, Livesay does not disclose the links are a single molded piece of a plastic material. Templin et al. disclose the claimed invention above. Therefore, it would have been obvious to one of ordinary in the art at the time of the invention to modify the links of Livesay so that the are a one piece plastic molded material in view of Templin et al. in order to reduce weight and to reduce the number of parts during assembling and dissembling.

In addition, in claims 1, 8 and 15, it is apparent that the seal (76) of Livesay would inherently inhibit contaminants from passing between the first and second links. As seen in figure 2, the seal (76) is inserted in the aperture of the second links and between the two links thus preventing oil, grease and other liquid/fluid material from passing through to the pin.

***Response to Arguments***

4. Applicant's arguments filed de12-12-2005 have been fully considered but they are not persuasive. Applicant contended that Livesay fails to disclose significantly more than the molded chain but also fails to disclose the pin extending through the barrel to pivotally join the links. It should be noted that Templin et al. clearly show the inner links having a section that allows the pin to pass through and one of ordinary skill in the art would be able to provide the inner links of Livesay with barrels in order to protect the pins and preventing them from bending, It should also be noted that the seal (76) sealingly engages the apertures of the links see fig. 2.

Applicant also contended that the chain of Livesay is a track chain and it would not be obvious to make a track chain from a moldable device. It should be noted that applicant broadly discloses a chain assembly and there is nothing specific of the chain in the claim to identify the chain with any particular type of chain. Therefore, the chain is interpreted broadly to include any chain that includes the claim limitations.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that Livesay is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, it appears that the chain of Livesay is in applicant's field of endeavor since applicant did not claim any particular chain and inherently pertinent to the particular problem with which the applicant was concerned.

Therefore, for reasons given above, the rejection is deemed proper.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marcus Charles  
Primary Examiner  
Art Unit 3682  
January 28, 2006